

On October 3, 1933, the United States attorney for the Northern District of West Virginia, acting upon a report by the Secretary of Agriculture, filed in the district court a libel against 140 bottles of camphorated oil at Wheeling, W. Va., alleging that the article had been shipped in interstate commerce on or about May 5, 1933, by Styron-Beggs Co., from Newark, Ohio, and charging misbranding in violation of the Food and Drugs Act as amended.

The article was alleged to be misbranded in that the following statements on the bottle label and carton, regarding the curative and therapeutic effects of the article, were false and fraudulent: "Rheumatic or Gouty Affections of the joints, \* \* \* Sore Throat, Croup and Local Pains."

On February 21, 1934, no claimant having appeared, judgment of condemnation was entered, and it was ordered that the product be destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

**24036. Misbranding of Savoss. U. S. v. 47 Bottles of Savoss. Default decree of condemnation and destruction. (F. & D. no. 31242. Sample no. 44897-A.)**

This case involved a drug preparation, the labels of which contained unwarranted curative and therapeutic claims.

On October 16, 1933, the United States attorney for the Northern District of California, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 47 bottles of Savoss at San Francisco, Calif., alleging that the article had been shipped in interstate commerce on or about September 21, 1933, by the Troy Chemical Co., Inc., from Binghamton, N. Y., and charging misbranding in violation of the Food and Drugs Act as amended. The article was labeled in part: "Savoss \* \* \* Formerly Save-The-Horse Treatment \* \* \* Troy Chemical Co., Inc. Binghamton, N. Y."

Analysis showed that the article consisted essentially of volatile oils, such as turpentine oil and tar oil (72 percent by volume), a trace of an iodine compound, and alcohol (15 percent by volume).

The article was alleged to be misbranded in that the following statements appearing in the labeling, regarding its curative or therapeutic effects, were false and fraudulent: (Bottle label) "Save-the-Horse treatment [cut showing diseased conditions of horses' legs] For lameness In Cases Of Bone Spavin, Ringbone (Except Low Ringbone), Splint \* \* \* As Well As Lameness, In Such Conditions As Bog Spavin, Curb, Windpuff \* \* \* and bandage only in such specific cases as are described in Book of Directions which accompanies each bottle"; (carton) "Save-The-Horse Treatment \* \* \* [Cut showing diseased conditions of horses' legs] For Lameness In Cases Of Bone Spavin, Ringbone (Except Low Ringbone), Splint \* \* \* As Well As Lameness, In Such Conditions As Bog Spavin, Curb, Windpuff \* \* \* enlargements and all parts that are affected. \* \* \* bandage only in such specific cases as are described in Book of Directions which accompanies each bottle"; (circular) "Save-The-Horse Treatment \* \* \* 'I want Savoss, formerly Save-The-Horse.' \* \* \* Caked-Bag not involved with fever or inflammation"; ("Guarantee-Contract") "One bottle of Savoss is required for any one case of Bone, Bog or Blood Spavin, Curb, Splint, Sidebone, Capped-Hock and high Ringbone. \* \* \* Two bottles of Savoss are required for any one case of Thoropin in combination with Bog Spavin; Wind Puff; Injured, Filled or Bowed Tendon or Ligament; Two High Ringbones, one on each side of same pastern; \* \* \* Shoulder, Hip or Stifle Lameness, including displacement of stifle in colts. \* \* \* Thrush, Gravel, Contracted Hoof, Founder, Low Ringbone, Cocked Angle, Sprung Knee, Sweeney, Displacement of Stifle in matured horses, the use of Savoss to locate Lameness and for the treatment of cows, or other domestic animals. \* \* \* Save-The-Horse Treatment"; (booklet) "Save-The-Horse Treatment \* \* \* In any remote case, even if swelling or lameness increases at the start, faithfully persist in the treatment, as such symptoms are not unfavorable. \* \* \* In cases of established growths such as Bone Spavin and Ringbone \* \* \* If, after two or three courses, Savoss does not take hold, making a scurf, each first course may be extended to 10 or 12 days \* \* \* Bone and Blind Spavin Lameness \* \* \* Bog and Blood Spavin \* \* \* Thoroughpin \* \* \* Capped Hock \* \* \* Lameness \* \* \* For Swelling \* \* \* Wind-Puff or Wind-Gall \* \* \* Shoulder Lameness \* \* \* 'Sweeney' \* \* \* Poll Evil \* \* \* Fistulous withers \* \* \* Shoebill Or Capped Elbow \* \* \* Hip and Whirlbone Lameness \* \* \* Stifle Lameness

\* \* \* Enlarged, Capped and Injured Knee \* \* \* Sprung Knee  
 \* \* \* Splint \* \* \* Ringbone or 'Cling-Fast,' and 'Osslets' \* \* \*  
 Side-bone \* \* \* Hoof-Bound and Founder \* \* \* 'filled' Tendon  
 \* \* \* Bowed Tendon."

On November 1, 1934, no claimant appearing, judgment of condemnation was entered, and it is was ordered that the product be destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

**24037. Alleged adulteration and misbranding of thyroid gland capsules.**  
 U. S. v. George A. Breon & Co., Inc. Tried to the court. Judgment of guilty on one misbranding count; not guilty on remaining counts. Appeal to the Circuit Court of Appeals. Judgment reversed and case remanded. (F. & D. no. 31336. Sample nos. 13916-A, 13917-A.)

On January 12, 1934, the United States attorney for the Western District of Missouri, acting upon a report by the Secretary of Agriculture, filed in the district court an information against George A. Breon & Co., Inc., Kansas City, Mo., alleging shipment by said company in violation of the Food and Drugs Act as amended, on or about August 24, 1932, from the State of Missouri into the State of Ohio of quantities of thyroid gland capsules which were adulterated and misbranded. The article was labeled in part: "Capsules \* \* \* Thyroid Gland Substance (Desiccated) 1-4 Gr. [or "1 gr."]" \* \* \* Geo. A. Breon & Co., Inc., Kansas City, Mo."

The article was alleged to be adulterated in that its strength and purity fell below the professed standard under which it was sold in that the capsules were represented to contain  $\frac{1}{4}$  grain and 1 grain, respectively, of desiccated thyroid, whereas the former contained more than  $\frac{1}{4}$  grain and the latter contained less than 1 grain of desiccated thyroid.

The article was also alleged to be misbranded in that the statements "Capsules \* \* \* Thyroid Gland Substance (Desiccated) 1-4 gr. [or "1 gr."]", borne on the bottle labels, were false and misleading.

On February 5, 1934, the defendant filed a motion to quash, and subsequently filed a demurrer and a motion for a bill of particulars, which were argued March 26, 1934, and overruled. On April 5, 1934, a jury having been waived, the case was tried to the court, and judgment was entered finding the defendant guilty on the count charging misbranding of the  $\frac{1}{4}$ -grain capsules, and not guilty on the remaining counts. On April 19, 1934, motions in arrest of judgment and for a new trial were overruled, and on the same date the defendant filed its petition for appeal and assignment of errors. On November 19, 1934, the judgment of the lower court was reviewed in the circuit court of appeals for the eighth circuit, was reversed, and the case was remanded with the following opinion (Gardner, *circuit judge*):

"This is an appeal from the judgment of the lower court finding appellant guilty upon the second count of an information charging it with having shipped in interstate commerce a bottle containing one hundred capsules labeled, "one-quarter grain desiccated thyroid", and charging that the same was misbranded under the Food and Drugs Act (Title 21, U. S. C. A., secs. 1 to 25), in that said capsules contained more than one-quarter grain desiccated thyroid.

"We shall refer to the appellant as defendant.

"The information contained four counts. Trial by jury was waived, and the court, at the conclusion of the evidence, found the defendant not guilty on counts 1, 3, and 4, but found it guilty on count 2. Defendant interposed a demurrer to count 2, on the ground that unless the contents of the capsules fell below the indicated strength and purity, it was not a violation to ship them. The court overruled the demurrer, and also overruled defendant's demurrer to the evidence as to this count.

"On this appeal it is contended (1) that the court erred in overruling the demurrer to count 2 of the information; (2) that the evidence is insufficient to warrant a conviction; and (3) that the verdict is against the declaration of law given by the trial court.

"It is earnestly urged by defendant that furnishing an excess of the identical drug stated on the label, the drug being a harmless and wholesome one, is not a crime, and that the Pure Food and Drugs Act was intended to protect public health and prevent fraud, and hence, does not apply to a case where health is not endangered, and no fraud is committed. The Government, on the other hand, contends that the act was passed for the purpose of protecting the general public, to preserve their health, and to prevent their being deceived by